

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KEVIN JOHNSON, *et al.*,

Plaintiffs,

-v-

7C'S MAINTENANCE COMPANY, INC., *et al.*,

Defendants.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED 12-14-12

No. 12 Civ. 1621 (RJS)  
ORDER

RICHARD J. SULLIVAN, District Judge:

On December 12, 2012, the parties submitted a stipulation of dismissal in the above-captioned case. However, because Plaintiffs' Second Amended Complaint makes claims under the Fair Labor Standards Act, ("FLSA"), 29 U.S.C. § 201 *et seq*, judicial approval is required before settlement. *See Medley v. Am. Cancer Soc'y*, No. 10 Civ. 3214 (BSJ), 2010 WL 3000028, at \*1 (S.D.N.Y. July 23, 2010) ("With only two exceptions, employees cannot waive FLSA claims for unpaid wages or overtime, for less than full statutory damages. The two exceptions are for: (1) settlements supervised by the Secretary of Labor, and (2) judicially-approved stipulated settlements." (quoting *Manning v. N.Y. Univ.*, No. 98 Civ. 3300 (NRB), 2001 WL 963982, at \*12 (S.D.N.Y. Aug. 22, 2001))). The requirement of court-supervised approval arises in part from the "fear that employers would coerce employees into settlement and waiver." *Manning*, 2001 WL 963982, at \*11. "In deciding whether to approve a stipulated settlement, the Court must scrutinize the settlement for fairness." *Boucaud v. City of New York*, No. 07 Civ. 11098 (RJS), 2010 WL 4813784, at \*1 (S.D.N.Y. Nov. 16, 2010) (internal quotations and citations omitted).

Accordingly, IT IS HEREBY ORDERED that, by January 25, 2013, the parties shall submit a joint letter to the Court, setting forth their views on why the settlement is fair. The parties are further directed to indicate in the settlement agreement what portion of the total settlement amount shall be paid to Plaintiffs' counsel as attorneys' fees, and attach a copy of the agreement to their joint letter.

IT IS FURTHER ORDERED that the parties, including Plaintiffs personally, shall appear for a fairness hearing on Friday, February 1, 2013 at 11:30 a.m.

SO ORDERED.

Dated: December 13, 2012  
New York, New York

  
\_\_\_\_\_  
RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE